

William A. Broschious, Esquire (VSB #27436)
Kimberly A. Taylor, Esquire (VSB #29823)
KEPLEY BROSCIOUS & BIGGS, PLC
2211 Pump Road
Richmond, VA 23233
(804) 741-0400 x202

Counsel for Trustee

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:)	Chapter 7
)	
ERIKA P. VINING,)	Case No. 14-35141-KRH
)	
Debtor.)	

**APPLICATION FOR ALLOWANCE OF COMPENSATION AND EXPENSE
REIMBURSEMENT OF KEPLEY BROSCIOUS & BIGGS, PLC**

Kepley Broschious & Biggs, PLC (“**KBB**”), counsel for Bruce H. Matson, Trustee (the “Trustee”), submits this Application for Allowance of Compensation (the “**Fee Application**”) pursuant to 11 U.S.C. §§ 330 and 331 and Rule 2016 of the Federal Rules of Bankruptcy Procedure, and in support thereof states the following:

Background

1. The Debtor filed for relief in the above-captioned Bankruptcy Court (the “**Court**”) pursuant to Chapter 7 of 11 U.S.C. § 101 *et seq.* (the “**Bankruptcy Code**”).
2. The Trustee was appointed interim trustee in the Chapter 7 case (the “Case”) and continues to serve as trustee in this Case.

Jurisdiction and Venue

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this

district pursuant to 28 U.S.C. § 1408.

Case Status

4. The financial condition and status of the Case are as follows:

a. Cash on hand/deposit in the estate: \$ 0.00¹

b. Accrued unpaid administrative expenses

Legal Fees	\$ 14,140.00
Legal Expenses	\$ 143.16
Accountant Fees	\$ 0.00

Employment of KBB and Services Provided to Trustee

5. On June 22, 2017, the Court entered an Order authorizing the Trustee to retain and employ KBB [*docket no. 67*] (the “**Employment Order**”). KBB provided advice and 16 other services concerning the bankruptcy estate’s interest in certain real property owned by the Debtor and her husband, specifically including commencement of an adversary proceeding seeking to determine the validity of a deed of trust on the property and to obtain authority to sell the property free and clear of liens. The result of the litigation was a settlement agreement that is the subject of a motion pursuant to Bankruptcy Rule 9109 pending before the Court [*docket no. 79*] (the “**Settlement**”). The Settlement is anticipated to produce funds of \$15,000.00 which is to be delivered to the Trustee following the Court’s approval of the Settlement.

6. KBB has rendered professional services to the Trustee and incurred reasonable expenses in the aggregate amount of \$14,283.16. Attached hereto as **Exhibit A** is a complete statement of such services rendered by KBB.

¹ See paragraph 5 hereof.

7. KBB hereby certifies that the Trustee has reviewed and approved this Fee Application.

Applicable Legal Standard

8. The Bankruptcy Code sets forth the legal standards for awarding compensation to professionals employed by the Trustee. The format for fee applications is set forth in the Compensation Guidelines for Professionals in the United States Bankruptcy Court for the Eastern District of Virginia (the “**Guidelines**”).

9. Under § 330 of the Bankruptcy Code, the Court may award counsel to the Trustee reasonable compensation for actual, necessary services rendered by such attorneys and paraprofessionals employed by such attorneys based on the nature, extent and value of the services rendered, time spent on such services and the cost of comparable services other than in a bankruptcy case. Furthermore, the Court may award reimbursement for actual, necessary expenses.

10. The expenses incurred by KBB, as set forth herein, are reasonable and necessary charges for items such as photocopying as postage.

11. Under the “lodestar” approach, the Court should consider the number of hours of service reasonably devoted to the case multiplied by the attorney’s reasonable rates. Courts frequently consider the specific “lodestar” factors enumerated in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974). These lodestar tests were adopted by the Fourth Circuit in Barber v. Kimbrells, Inc., 577 F.2d 216, 226 (4th Cir. 1978), cert. denied, 439 U.S. 934 (1978), and in Anderson v. Morris, 658 F.2d 246, 249 (4th Cir. 1981), where the Fourth Circuit held that the District Court should employ the lodestar approach, and then adjust the fee on the basis of the remaining Johnson factors in the case.

12. KBB believes that the services rendered to the Trustee and the out-of-pocket expenses incurred therewith were necessary and reasonable in view of the Trustee's obligations in this Case and the scope and nature of the matters in which KBB was involved to competently represent the Trustee.

13. Upon information and belief, the rates charged by KBB are comparable to, if not less than legal fees charged by other law firms in comparable Chapter 7 cases. KBB believes that the fees requested herein clearly satisfy the Johnson factors as set forth above.

14. The form and format of this Fee Application comply with the Guidelines.

Conclusion

WHEREFORE, KBB respectfully requests that the Court (i) approve this Fee Application for allowance of compensation for professional services rendered by KBB in the amount of \$14,140.00 and expense reimbursement of \$143.16; (ii) enter the Order substantially in the form attached hereto as **Exhibit B** approving the compensation and reimbursement of expenses requested herein and authorizing the Trustee to pay such amounts, and (iii) grant such other and further relief as the Court deems appropriate.

BRUCE H. MATSON, TRUSTEE

/s/ William A. Broschious

Counsel for Trustee

William A. Broschious, Esquire (VSB #27436)
Kimberly A. Taylor, Esquire (VSB #29823)
KEPLEY BROSCIOUS & BIGGS, PLC
2211 Pump Road
Richmond, VA 23233
(804) 741-0400 x202

Counsel for the Trustee

CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2018, a true and correct copy of this Application for Allowance of Compensation and Expense Reimbursement was sent by electronic delivery to all parties receiving electronic notification, including:

Robert Van Arsdale, Esquire
Shannon Pecoraro, Esquire
Office of the U.S. Trustee
701 East Broad Street - Suite 4304
Richmond, Virginia 23219

Assistant U.S. Trustee

Steve Shareff, Esquire
Upright Law LLC
115 West Main Street, Suite 5
P.O. Box 729
Louisa, Virginia 23093

Counsel for the Debtor

/s/ William A. Broschious
Counsel for the Trustee

KEPLEY BROSCIOUS & BIGGS PLC2211 Pump Road
Richmond, VA 23233

EIN 54-1925560

August 20, 2018**File No. 60258.014**

Invoice submitted to:

Bruce H. Matson, Trustee
c/o LeClair Ryan
919 East Main Street
Twenty-fourth Floor
Richmond, VA 23219

In Reference To: Erika P. Vining (Case No. 12-35141-KRH)

PROFESSIONAL SERVICES:

		<u>Hrs/Rate</u>	<u>Amount</u>
<u>01 General</u>			
6/15/2017	WAB prepare employment pleadings and notice of appearance; email to Kim Lord regarding same	0.50 350.00/hr	NO CHARGE
6/29/2017	WAB e-mail exchange with Kim Lord regarding adjourned 341 meeting and proposed line of inquiry and requests	0.35 350.00/hr	122.50
11/1/2017	KAT conference with Mr. Broschious to discuss strategy for resolving issue in both bankruptcy proceedings (.50); prepare e-mail to Mr. Matson outlining issues and course of action and telephone call to the Chapter 7 Trustee for Mr. Vining (.60)	1.10 350.00/hr	385.00
	WAB conference with Ms. Taylor regarding approaches for resolving claims in both bankruptcy cases	0.50 350.00/hr	175.00
SUBTOTAL:		[2.45	<u>682.50]</u>

Please put the Client Matter Number on Your Check

KEPLEY BROSCIOUS & BIGGS, PLC

Bruce H. Matson, Trustee

Page 2

File No. 60258.014

	<u>Hrs/Rate</u>	<u>Amount</u>
<u>02 Ex-Spouse Bankruptcy Case</u>		
6/27/2017 WAB draft and file notice of appearance in William T. Vining Chapter 13 bankruptcy case	0.20 350.00/hr	70.00
9/6/2017 KAT draft and file notices of appearance in Erica Vining's and William Vining's cases (.20); begin draft of motion for relief from stay in William Vining case (.80)	1.00 350.00/hr	350.00
10/11/2017 KAT continue drafting motion for relief from stay and movant's certificate in Mr. Vining's bankruptcy case, including review of schedules and supporting exhibits	0.65 350.00/hr	227.50
10/18/2017 KAT finish draft of motion for relief from stay	0.75 350.00/hr	262.50
10/24/2017 KAT email exchange with Mr. Matson regarding conversion of William Vining's case	0.10 350.00/hr	35.00
10/25/2017 KAT review schedules for joint claims; email exchange with Mr. Matson regarding same	0.15 350.00/hr	52.50
11/1/2017 KAT telephone call from Chapter 7 trustee for Mr. Vining's case regarding problems with deed of trust	0.70 350.00/hr	245.00
SUBTOTAL:	[3.55	<u>1,242.50]</u>

KEPLEY BROSCIOUS & BIGGS, PLC

Bruce H. Matson, Trustee

Page 3

File No. 60258.014

	<u>Hrs/Rate</u>	<u>Amount</u>
<u>03 Locust Grove Property</u>		
6/15/2017 WAB research regarding JTWROS property encumbered by deed of trust made by one spouse and e-mail exchange with Bruce Matson regarding same	0.50 350.00/hr	175.00
6/19/2017 WAB review deed and deed of trust and detailed email to Bruce Matson regarding analysis and next steps	0.40 350.00/hr	140.00
6/21/2017 WAB research spouse's bankruptcy case documents, review loan documents, and draft complaint to determine	2.25 350.00/hr	787.50
6/22/2017 WAB draft and revise complaint to determine and detailed analysis to Bruce Matson regarding same and recommendations	1.35 350.00/hr	472.50
6/26/2017 WAB e-mail exchange with Bruce Matson regarding complaint and commencement of same in Western District and revise complaint	1.20 350.00/hr	420.00
6/28/2017 WAB draft position letter to Lindsey Kelly, FMNA's counsel, regarding deed of trust deficiencies (.50); teleconference with Ms. Kelley regarding same and 2009 title curative order (.25); detailed emails to Ms. Kelly regarding document requests and to Mr. Matson regarding recommendations for next steps (.45); detailed email to Ms. Vining's counsel regarding document and information requests (.20)	1.40 350.00/hr	490.00
7/7/2017 WAB teleconference with Bruce Matson regarding default order concerning title to real property and next steps	0.45 350.00/hr	157.50
8/2/2017 WAB email to Mr. Matson regarding status update and teleconference with Mr. Matson regarding same and declaratory judgment complaint	0.45 350.00/hr	157.50
WAB revise complaint against FNMA for declaratory relief (.35); research regarding set aside default judgments (.25)	0.60 350.00/hr	210.00
8/3/2017 WAB consult with Kim Taylor regarding default judgment set aside issue	0.20 350.00/hr	70.00
8/7/2017 WAB meeting with Kim Taylor regarding strategies to set aside default judgment, including detailed attention to jurisdictional considerations	0.35 350.00/hr	122.50

KEPLEY BROSCIOUS & BIGGS, PLC

Bruce H. Matson, Trustee

Page 4

File No. 60258.014

		<u>Hrs/Rate</u>	<u>Amount</u>
8/9/2017	KAT review issues of jurisdiction, procedure and strategy in vacating state order and prepare e-mail to Mr. Broschious regarding initial opinion	1.20 350.00/hr	420.00
	WAB review analysis of setting aside default judgment and next steps (.25); detailed email to Bruce Matson regarding same (.35)	0.60 350.00/hr	210.00
8/16/2017	WAB e-mail exchange with Bruce Matson regarding strategies to vacate state court default judgment reforming deed of trust and prepare suggestion in bankruptcy	0.55 350.00/hr	192.50
11/28/2017	KAT conference with Mr. Broschious regarding strategy in light of W. Vining's case abandonment	0.35 350.00/hr	122.50
	WAB meeting with Kim Taylor regarding strategies to liquidate real estate interest	0.35 350.00/hr	122.50
2/7/2018	WAB review revised complaint and email to Bruce Matson regarding same and settlement strategy	0.30 350.00/hr	105.00
	WAB review draft complaint and consider settlement strategies	0.45 350.00/hr	157.50
2/8/2018	KAT telephone call to counsel for Mr. Vining's counsel regarding upcoming adversary complaint	0.30 350.00/hr	105.00
2/14/2018	KAT finalize and file complaint (1.35); engaged regarding service of process issues, including contacting potential counsel for defendants (.50)	1.85 350.00/hr	647.50
2/16/2018	WAB review complaint and summons and file notice of appearance	0.30 350.00/hr	105.00
2/19/2018	KAT draft and file adversary cover sheet; engaged regarding service on defendants and filing certificates of service (.55)	0.25 350.00/hr	87.50
3/6/2018	KAT email exchanges with Ms. Vining's bankruptcy counsel	0.10 350.00/hr	35.00
3/12/2018	KAT engaged regarding corrected service of process on Federal National Mortgage Association and obtaining copy of 341 transcripts	0.25 350.00/hr	87.50

KEPLEY BROSCIOUS & BIGGS, PLC

Bruce H. Matson, Trustee

Page 5

File No. 60258.014

		<u>Hrs/Rate</u>	<u>Amount</u>
3/13/2018	KAT review and take notes on recordings of Ch. 7 341 meetings (.80); engaged obtaining from Orange County Circuit Court Clerk's office a copy of entire case file for default judgment (.25)	1.05 350.00/hr	367.50
3/15/2018	KAT communications with counsel for Fannie Mae regarding extension of time to respond to complaint	0.20 350.00/hr	70.00
3/16/2018	KAT review answer of Mr. White, compare to complaint, and e-mail to Mr. White's counsel regarding insufficiency of answer	0.25 350.00/hr	87.50
3/22/2018	KAT conference with Mr. Broschious regarding response to motion to dismiss	0.10 350.00/hr	35.00
	WAB meeting with Kim Taylor regarding response to dismissal motion	0.10 350.00/hr	35.00
3/30/2018	KAT continue drafting opposition to motion to dismiss and file same	1.50 350.00/hr	525.00
4/2/2018	KAT review HOA answer and call counsel for HOA (.25); research, draft and file motion to strike Mr. White's answer (0.90); prepare for hearing on motion to dismiss (.75)	1.90 350.00/hr	665.00
	WAB review response to motion to dismiss and memorandum to Kim Taylor identifying other compelling reasons in support of 363 sale	0.40 350.00/hr	140.00
4/3/2018	KAT review notice of hearing on Fannie Mae's motion and draft notice of hearing on motion to strike	0.30 350.00/hr	105.00
	KAT draft, file and serve motion for default judgment and notice of hearing	0.75 350.00/hr	262.50
4/10/2018	KAT draft and file notice of hearing on motion to strike and prepare hearing notebook	0.45 350.00/hr	157.50
4/18/2018	KAT prepare for hearings	0.80 350.00/hr	280.00
	KAT conference with and prepare e-mail to Mr. Broschious regarding hearing and status	0.25 350.00/hr	87.50

KEPLEY BROSCIOUS & BIGGS, PLC

Bruce H. Matson, Trustee

Page 6

File No. 60258.014

	<u>Hrs/Rate</u>	<u>Amount</u>
4/18/2018 KAT attend pretrial conference	1.75 350.00/hr	612.50
4/19/2018 KAT review pretrial order and calendar dates	0.35 350.00/hr	122.50
4/25/2018 KAT telephone call from Judge's clerk regarding order; review order denying motion to strike	0.10 350.00/hr	35.00
5/2/2018 KAT draft and file initial disclosures; review Fannie Mae's initial disclosures	1.20 350.00/hr	420.00
5/3/2018 KAT review Mr. Vining's and LOW initial disclosures	0.20 350.00/hr	70.00
5/10/2018 KAT engaged with substitution of counsel order and failure of Mr. White to file initial disclosures	0.20 350.00/hr	70.00
5/24/2018 KAT review initial disclosures of Mr. White; prepare e-mails to defense counsel regarding production of documents identified in initial disclosures	0.30 350.00/hr	105.00
5/29/2018 KAT review documents produced by HOA	0.20 350.00/hr	70.00
6/6/2018 KAT prepare for hearing on motion to dismiss (.75); attend hearing (.50)	1.25 350.00/hr	437.50
6/13/2018 KAT draft and serve subpoenae duces tecum on Fannie Mae and Mr. White; email exchange with Mr. Rinaldi regarding same	0.75 350.00/hr	262.50
7/17/2018 KAT review documents produced by Fannie Mae and Mr. White	0.75 350.00/hr	262.50
7/19/2018 KAT telephone call from Mr. Rinaldi regarding settlement discussions	0.25 350.00/hr	87.50
7/26/2018 KAT engaged regarding possible settlement	0.20 350.00/hr	70.00
7/31/2018 KAT engaged regarding details of settlement	0.10 350.00/hr	35.00

KEPLEY BROSCIOUS & BIGGS, PLC

Bruce H. Matson, Trustee

Page 7

File No. 60258.014

	<u>Hrs/Rate</u>	<u>Amount</u>
7/31/2018 WAB draft settlement pleadings	0.85 350.00/hr	297.50
8/6/2018 KAT engaged negotiating settlement agreement and revising 9019 motion, notice and order	0.75 350.00/hr	262.50
8/13/2018 KAT engaged regarding finalizing settlement	0.15 350.00/hr	52.50
8/14/2018 KAT engaged regarding finalizing settlement and filing 9019 motionn	0.50 350.00/hr	175.00
9/5/2018 KAT prepare for and attend hearing on proposed settlement and submit order (estimate)	1.00 350.00/hr	350.00
 SUBTOTAL:	 [34.90	 <u>12,215.00]</u>

KEPLEY BROSCIOUS & BIGGS, PLC

Bruce H. Matson, Trustee

Page 8

File No. 60258.014

	<u>Hours</u>	<u>Amount</u>
FOR PROFESSIONAL SERVICES RENDERED	40.90	\$14,140.00

ADDITIONAL CHARGES:

Copy Reimburse	40.00
ECF Charge	11.60
Express Mail	15.64
Parking	30.00
Postage	35.80
Search Fee	10.12

TOTAL ADDITIONAL CHARGES	\$143.16
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TOTAL AMOUNT OF THIS INVOICE	\$14,283.16
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BALANCE DUE	\$14,283.16
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Timekeeper Summary

<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Kimberly A. Taylor	26.30	350.00	\$9,205.00
William A. Broschious	14.10	350.00	\$4,935.00
William A. Broschious	0.50	0.00	\$0.00

Please put the Client Matter Number on Your Check

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Richmond, VA 23233
(804) 741-0400 x202

Counsel for Trustee

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:)	Chapter 7
)	
ERIKA P. VINING,)	Case No. 14-35141-KRH
)	
Debtor.)	

**ORDER APPROVING APPLICATION FOR ALLOWANCE
OF COMPENSATION AND EXPENSE REIMBURSEMENT
OF KEPLEY BROSCIOUS & BIGGS, PLC**

This matter came before the Court upon the Application for Allowance of Compensation and Expense Reimbursement of Kepley Broschious & Biggs, PLC [*document no. ____*] (the “**Fee Application**”) filed by Kepley Broschious & Biggs, PLC (“KBB”), counsel to Bruce H. Matson, Chapter 7 Trustee (the “**Trustee**”). The Court, having reviewed the Fee Application, finds that: (i) jurisdiction is proper pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) notice of the Fee Application and Hearing was proper and sufficient; (iv) there are no objections to the Fee Application; and (v) payment of the requested compensation and reimbursement of expenses as allowed herein is reasonable; it is hereby

ORDERED as follows:

1. The Fee Application is approved;
2. Compensation in the amount of \$14,140.00 for professional services rendered to the Trustee for the Trustee’s benefit is hereby allowed;

3. Reimbursement in the amount of \$143.16 for expenses incurred by KBB on behalf of the Trustee for the Trustee's benefit is hereby allowed:

4. The Trustee is authorized to pay all professional fees and expenses awarded herein to KBB.

5. The Clerk is directed to send copies of this Order upon entry to the parties on the attached Service List.

ENTERED: / / .

UNITED STATES BANKRUPTCY JUDGE

I ASK FOR THIS:

/s/ William A. Broschious
William A. Broschious, Esquire (VSB #27436)
Kimberly A., Taylor, Esquire (VSB #29823)
KEPLEY BROSCIOUS & BIGGS, PLC
2211 Pump Road
Richmond, VA 23233
(804) 741-0400 x202

Counsel for Trustee

9022-1 CERTIFICATION

I hereby certify that the foregoing has been served on or endorsed by all necessary parties.

/s/ William A. Broschious
Counsel

SERVICE LIST

William A. Broschious, Esquire
Kepley Broschious & Biggs, PLC
2211 Pump Road
Richmond, Virginia 23233

Robert Van Arsdale, Assistant U.S. Trustee
Office of the U.S. Trustee
701 East Broad Street - Suite 4304
Richmond, Virginia 23219

Steve Shareff, Esquire
Upright Law LLC
115 West Main Street, Suite 5
P.O. Box 729
Louisa, Virginia 23093